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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,469	08/12/2002	Hans Uwe Faust	1876	3365

7590 03/30/2004
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EXAMINER

NILAND, PATRICK DENNIS

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069,469

Applicant(s)

FAUST ET AL.

Examiner

Patrick D. Niland

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dh

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). 'In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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1. The amendment of 8/12/02 has been entered. Claims 17-34 are pending.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 6197874 Irle et al..

Irle et al. discloses in situ polymerization of ethylenically unsaturated monomers, including acrylonitrile, in the presence of a polyurethane made with linear polyethers or polyesters which will necessarily and inherently give the instantly claimed crystallinity to the polyurethane. See the abstract; column 2, lines 20-65; column 3, lines 1-67, particularly 40-50; column 4, lines 1-67, particularly 10 and 35-53; column 5, lines 1-5 and 49-51; column 7, lines 1-5 and 63-67; and the remainder of the document. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the instantly claimed combinations of ingredients having the instantly claimed physical parameters because they are encompassed by the patentee and would have given only predictable results to the ordinary skilled artisan and the polyacrylate would have to have a Tg in the instantly claimed broad range to be film forming at ambient temperatures.

4. Claims 17-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 5854332 Swarup et al..

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Swarup et al. discloses the instantly claimed polymerization of vinyl monomers, including acrylonitrile, in the presence of a polyurethane made with linear polyethers or polyesters which will necessarily and inherently give the instantly claimed crystallinity to the polyurethane. See the abstract; column 1, lines 5-21; column 2, lines 58-67; column 3, lines 1-67, particularly 21-32; column 4, lines 1-67, particularly 40-43 and 59-67; column 5, lines 1-67, particularly 7-29; column 6, lines 1-67; column 8, lines 1-67, particularly 33-38; column 9, lines 1-67, particularly 21-38 and 44-47; column 12, lines 10-27; and the remainder of the document. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the instantly claimed combinations of ingredients having the instantly claimed physical parameters because they are encompassed by the patentee and would have given only predictable results to the ordinary skilled artisan and the polyacrylate would have to have a Tg in the instantly claimed broad range to be film forming at ambient temperatures. The clear coat/basecoat method of the patentee falls within the scope of the instant claims 32-33. The clear coat is plastic and It would have been obvious to one of ordinary skill in the art at the time of the instant invention to coat a plastic substrate therewith since most cars contain plastic panels these days and clear coat/base coat is most often used on cars. This falls within the scope of the instant claim 34.

5. Claims 17-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 6117936 Kato et al..

Kato discloses the instantly claimed polymerization of vinyl monomers, including acrylonitrile, in the presence of a polyurethane made with linear polyethers or polyesters

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which will necessarily and inherently give the instantly claimed crystallinity to the polyurethane. See the abstract; column 2, lines 20-67; column 3, lines 1-67, particularly 21-32; column 4, lines 1-67, particularly 40-43 and 59-67; column 5, lines 1-67, particularly 7-29; column 6, lines 1-67; column 8, lines 1-67, particularly 33-38; column 9, lines 1-67, particularly 21-38 and 44-47; column 12, lines 10-27; and the remainder of the document. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the instantly claimed combinations of ingredients having the instantly claimed physical parameters because they are encompassed by the patentee and would have given only predictable results to the ordinary skilled artisan and the polyacrylate would have to have a Tg in the instantly claimed broad range to be film forming at ambient temperatures.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick D. Niland whose telephone number is 571-272-1121. The examiner can normally be reached on Monday to Friday from 10am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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March 23, 2004

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Patrick D. Niland
Primary Examiner
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